In the Supreme Court of the United States

OCTOBER TERM, 1971

No. 71-1496

CASANOVA GUNS, INC., PETITIONER

v.

GEORGE P. SHULTZ,
SECRETARY OF THE TREASURY, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MEMORANDUM FOR THE RESPONDENTS IN OPPOSITION

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1. Petitioner commenced this action in the United States District Court for the Eastern District of Wisconsin to review the administrative decision of the Secretary of the Treasury denying it a renewal license as a gun importer on the ground that petitioner was subject to the direction and control of Casanova's, Inc., a convicted felon. The Gun Control Act, 18

U.S.C. 923, prohibits the issuance of federal firearms licenses to convicted felons and to companies directed or controlled by them.

The record shows that the officers and directors of petitioner and Casanova's, Inc. overlapped; that there was a unity of interest between the officers and stockholders of the two corporations; that petitioner had obtained its entire inventory of firearms from Casanova's, Inc., in exchange for its unsecured promissory demand note of $424,000.00; that petitioner depended on Casanova's, Inc., for space, light, heat, telephone service, bookkeeping and additional personnel when necessary; and that the allegedly independent controlling officer of petitioner received a substantial salary only from Casanova's, Inc. (Pet. App. 11a-12a).

2. The district court (Pet. App. 1a-6a) made its own "independent determination" (Pet. App. 2a) that petitioner was under the direction and control of Casanova's, Inc.; it thus concluded that petitioner was "not entitled to approval of its application for a license" (Pet. App. 6a). The court of appeals, after a detailed re-examination of the facts pertaining to common ownership and control (Pet. App. 10a-12a), sustained the administrative "denial of the application and the district court's affirmance of that decision" (Pet. App. 12a). The factual question of the relationship of the two corporations has thus been fully resolved adversely to petitioner by the Secretary and by both courts below. There is no cause for further review by this Court. *Berenyi* v. *Immigration*

Director, 385 U.S. 630, 635; *Graver Mfg. Co.* v. *Linde Co.*, 336 U.S. 271, 275.[1]

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

JULY 1972.

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[1] Petitioner's attempt to attack collaterally the felony conviction of Casanova's, Inc. is not properly before this Court. As petitioner acknowledges (Pet. 9), this issue was not raised "before the hearing examiner, the trial court or the Circuit Court of Appeals."

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